

1 **RESOLUTION NO.**

2 **WHEREAS**, on December 11, 2018 the Environmental Protection Agency
3 and the Department of the Army proposed amendments to the Clean Water Rule
4 adopted in 2015 that establishes a revised definition of the “waters of the United
5 States” that more narrowly restricts those waters subject to federal jurisdiction and
6 authority under the Clean Water Act; and

7 **WHEREAS**, the Clean Water Act is the fundamental federal law protecting
8 the Waters of the United States from pollution, degradation, and destruction; and

9 **WHEREAS**, the goal of the Act is “to restore and maintain the chemical,
10 physical, and biological integrity of the Nation’s waters”; and

11 **WHEREAS**, this goal cannot be met unless headwater, ephemeral and
12 intermittent streams, and wetlands are considered “Waters of the United States”
13 because these resources have the potential impact the chemical, physical, and
14 biological integrity of larger permanently flowing water bodies; and

15 **WHEREAS**, more than 1,000 peer reviewed scientific studies have
16 confirmed that headwater, intermittent and ephemeral streams, and wetlands affect
17 the quantity and quality of water in larger bodies of water downstream; and

18 **WHEREAS**, excluding certain streams and wetlands from Clean Water Act
19 protections puts all the Nation’s waters at risk because polluting or destroying these
20 resources has the potential to impact the water quality of rivers and larger water
21 bodies downstream; and

22 **WHEREAS**, the proposed December 2018 Rule would deprive over half of
23 the Nation’s wetlands, all ephemeral streams and many intermittent streams of Clean
24 Water Act protections accorded to them under the 2015 Clean Water Rule and the

25 pre-2015 regulations, including ephemeral and intermittent streams that are
26 tributaries of the Colorado River; and

27 **WHEREAS**, the Colorado River is the primary source of drinking water for
28 the City of Austin, and protecting its tributaries is essential to protecting this drinking
29 water supply; and

30 **WHEREAS**, many creeks in the City of Austin and within its extraterritorial
31 jurisdiction run dry parts of the year, including Barton, Shoal, Walnut, and
32 Williamson, and these waterways could lose their Clean Water Act protections under
33 the proposed new Rule, along with their tributaries; and

34 **WHEREAS**, climate change is projected to lengthen and intensify periods of
35 drought, thereby increasing the number of streams that are ephemeral or intermittent;
36 and

37 **WHEREAS**, climate change is also projected to lead to heavier rain events
38 during wet periods, thereby resulting in greater volumes of water flowing from
39 ephemeral and intermittent streams into the Colorado River during wet periods; and

40 **WHEREAS**, the City of Austin has expended considerable resources on creek
41 restoration, erosion control, channel stability, flood control, and water quality
42 improvements, and the proposed rule would undermine these efforts; and

43 **WHEREAS**, the Clean Water Rule finalized in 2015 by the EPA and the
44 Army Corps of Engineers (Corps) reflected input from stakeholders nationwide
45 received during more than 400 meetings and from over one million public comments
46 submitted during a 207-day comment period, the majority of which supported the
47 rule; and

48 **WHEREAS**, the City of Austin submitted a letter to EPA on August 7, 2014
49 expressing support for what became the 2015 Clean Water Rule; **NOW**,
50 **THEREFORE**,

51 **BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

52 The City Manager is directed to communicate to the EPA and the Corps to
53 preserve a broad definition of “Waters of the United States” that includes Clean
54 Water Act protections for headwater, ephemeral and intermittent streams and
55 wetlands, as defined by the 2015 Clean Water Rule.

56 **BE IT FURTHER RESOLVED:**

57 The City Manager is directed to encourage the residents of Austin and public
58 to submit similar public comments during the EPA’s 60-day public comment period
59 that ends April 15, 2019.

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62 **ADOPTED:** _____, 2019 **ATTEST:** _____

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Jannette S. Goodall
City Clerk